IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

the Application of

Jinhai Wang

U.S. Serial No.: 09/870,027

Filed: May 29, 2001

Title: QUINOLINE-AMINO ACID (C=O)-MULTIPLE
AMINO ACIDS) - LEAVING GROUP COMPOUNDS
AS PHARMACEUTICAL COMPOSITIONSMail Stop Restriction/Election
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450)
Group Art Unit: 1653
)
Examiner: David Lukton
)
)
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CERTIFICATE OF MAILING

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Howard M. Peters (Reg. No. 29,202)

TRANSMITTAL

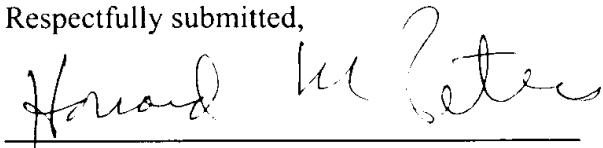
Sir:

Enclosed herewith for filing are the following documents:

1. Transmittal Letter in Duplicate (2 pgs);
2. Election Pursuant to 35 USC 121 (4 pgs); and
3. Postcard.

If additional fees are required for the filing of this document, the Commissioner for Patents is hereby authorized to charge or credit overpayment to Deposit Account No. 16-1331.

Respectfully submitted,



Howard M. Peters (Reg. No. 29,202)

Attorney of Record

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Attorney Docket No.: 3586.04-1

Date: August 15, 2003

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 Howard M. Peters (Reg. No. 29,202)
ELECTION PURSUANT TO 35 USC 121

Sir:

Applicant has received the restriction dated July 15, 2003 and have reviewed it carefully.

Prior to examining this application further, please amend it as follows:

The Examiner has requested restriction to one of the following inventions is required under 35 U.S.C. §121. He states that:

- “I. Claims 1-16, 19-28, drawn to compounds.
- II. Claims 17-18, drawn to compounds.

III. Claims 29-32, 34-36, drawn to a method of using the compounds of Group I.

IV. Claim 33, drawn to a method of using the compounds of Group II. The claimed inventions are distinct.

Groups I and II are distinct. The compounds of Group II must conform with the following ("quin" represents quinolinyl):



In the Group I claims, the C-terminal amino acid must be a methylketone of aspartic acid (or an ester thereof). In Group II, an aspartic acid need not be present. The second difference is that the Group II compounds require the following grouping to be present, which is not present in Group I: $-\text{CH}_2\text{-CO-CH}_2\text{-R}_2$

Thus, if "B" and "J" both represent glycine, and R_2 represents fluorine, the following would fall within the scope of Group II:



This compound is not encompassed by Group I because (a) the C-terminal amino acid is not aspartic acid, and does not contain aspartic acid, and (b) Group I does not permit the following group to be present at the C-terminus: " $\text{CO-CH}_2\text{-CO-CH}_2\text{-F}$ "

Inventions I, II and III, IV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP 806.05(h)). However, in the event that either of Groups I or II is elected, and claims therein found allowable, the corresponding method-of-use claims will be rejoined therewith for further examination.

In the event that Group I or Group II is elected, applicants are required under 35 U.S.C. §121 to elect a specie for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. A "specie" is a fully defined molecule, with all substituent variables and integer variables accounted for.

REMARKS

Applicant respectfully transverses this restriction.

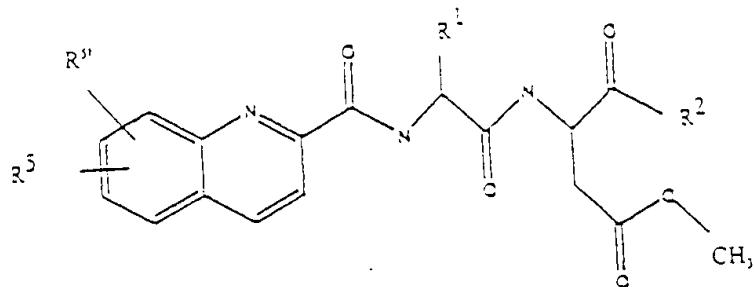
Applicant argues that all claims are part of the same invention and that multiple applications should not issue from this parent application. It is not in the public interest to have multiple expensive applications before the public in this matter.

ELECTION

However, to advance the prosecution of this application, Applicant elects Group I, Claims 1-16 and 19-28 with traverse.

SPECIES

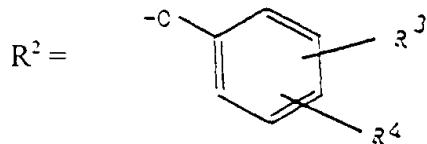
Applicants argues that the special specie requirement is unnecessary. The Examiner can search quinoline, multiple amino acids and phenoxy to encompass this invention. However to advance the search in this invention, Applicant elects with traverse as species the following structures:



wherein

R¹ is selected from the group consisting of methyl, ethyl, isopropyl, and iso-butyl;

R² is selected from the group consisting of:



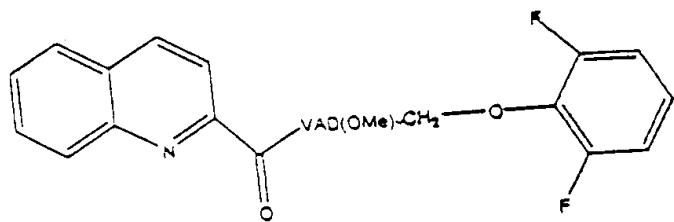
wherein R³ and R⁴ are each independently selected from the group consisting of hydrogen, alkyl having 1 to 10 carbon atoms, fluoro, chloro and amino;

and R⁵ and R⁵¹ are each selected from the group consisting of hydrogen having 1 to 10 carbon atoms, alkyl having 1 to 10 carbon atoms, alkoxy having 1 to 10 carbon atoms, fluoro, and chloro.

Claims which read on this broad species are as follows:

Claims 1, 2, 3, 4, 5, 9, 13, 14, 15, 16, 19, 20, 21, 23, 24, 25, 26, 27 and 28

within this broad species is the specific claimed compound:



Note that (OMe) may also be -OH.

SUMMARY

Applicants argues this restriction/election is not necessary.

However, the elected claims of Group I are of a form and scope for issuance. Prompt notification is requested.

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Respectfully submitted,

Date: August 15, 2003


Howard M. Peters (Reg. No. 29,202)

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